Revenue 195 48) Department.

MB SERIES.

G.O. No. 2874

Dated 2nd December 94 1948

[Despatch Abstract.]

Madras Estates Land (Reduction of Rent) Act, 1947 - Certain cases of anomalies - Procedure - Particulars to be furnished by Special Officer - Papers Recorded.

R.C.A2. 1229/48.

Office of the Special Officer for Rent Reduction in Estates, Board of Revenue, Madras, Dated: 14-12-48.

From

S.K. Chettur, Esq.,I.C.S.,
Special Officer for Rent Reduction in Estates,
Board of Revenue, Madras.

To

The Secretary to Government,
Revenue Department,
Fort St. George, Madras.

Sir,

Sub: Madras Estates Land (Rent Reduction) Act, 1947 - Rent Reduction proposals - Garden rates - Method of reduction - Orders ~~pass~~ requested.

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In my proposals relating to Konijerla estate in Chintalapudi Taluk, West Godavari, District, I proposed that the garden rates in Konijerla village might be reduced by 7/8 subject to the minimum of Rs.1-2-0 as a result of the comparison of the average estate garden rate with the Highest Dry Rate of the Government village i.e. Rs.1-2-0. But in their order cited, the Government have notified the reduced rate at a flat rate of Rs.1-2-0 which is the Highest Dry Rate of the selected Government village, against all the garden rates of the estate village.

2. Section 2 (3) of the Rent Reduction Act required comparison between the weighted average of the garden lands and the weighted average of similar lands in the Government village. If there is irrigation from a zamin source, water-rate is added on to the Highest Dry Rate of the Government village and then the comparison made with the average of the estate rates for garden lands and a ratio of reduction struck. If garden lands do not receive zamin water, the average of the garden rates is compared only with the Highest Dry Rate of the selected Government village.

3. In the present case, the ratio of reduction proposed by me was 1/8 and hence the first five rates when reduced became less than Rs.1-2-0 and were limited to Rs.1-2-0 and the last three rates of Rs.11-6-0, 11-11-0 and 13-3-30 became Rs.1-7-0 and 1-10-0 respectively. This retains to some extent the priciple that lands of different fertility should have different rates and is in consonance with the modus operandi of the Act.

4. I therefore request that the Government may be pleased to reconsider their order cited above as it is in conflict with the provisions of the Act.

5. The Board of Revenue does not agree with me in my views above and I am therefore sending this reference direct.

Y.O.S.
Sd. x x x
For Special Officer

/True Copy/

Extract from RC.A3.1013/48 dated 23-12-48 from The Special Officer for Rent Reduction in Estates to The Secretary to Goverı ment, Revenue Department, Fort St. George.

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Sub: Madras Estates Land (Reduction of Rent) Act, 1947 - (West Godavari) - Eluru Taluk - Amberpeta - Viravalli Estate - Reduced rates of rent fixed - Notification - Erratum - Issued.

Ref: G.O.Rt.No.1099/ Revenue, dated 13-12-1948.

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xxx xxx

2. This is another of those cases where Government has not accepted my recommendation that the garden rates be reduced by a certain proportion. In this case, I recommended that the single rate of Rs.4-0-0 which was below Rs.4-2-0 should be left as it is, and that the other rates should be reduced by 1/2 subject to the minimum of Rs.4-2-0 which was the Highest Dry Rate of the village, Rs.3-0-0 plus water cess of Rs.1-2-0. As a result, the ra suggested were:-

Present Rates.			Reduced Rates.		
Rs.	A.	P.	Rs.	A.	P.
4	0	0	4	0	0
8	0	0	4	2	0
8	8	0	4	4	0
10	8	0	5	4	0
12	0	0	6	0	0

Instead of this Government have decided to reduce all the rates to a flat rate of Rs.4-2-0 which is the Highest Dry Rate of the Government village plus water-cess. This I maintain is inequitable, wrong in principle and unsound in law, as it is oppos to the terms of the Rent Reduction Act, and I once again bring th to the notice of Government, for such action as Government deem necessary.

/True Extract/

Revenue Department.

Memo. No. 71251-M/48-2, dated 21-2-49.

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Madras Estates Land (Reduction of Rent) Act, 1947 - Rates of rent on garden lands - Method of reduction - Procedure - Clarification.

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From the Special for Rent Reduction RC.A2/1229/48 dated 14-12-48.
From the Special for Rent Reduction,RC.A3-1013/48 dated 23-12-48.

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The Government consider that no change is necessary in the existing procedure followed in the matter of reduction of garden rates in the estate villages. The Special Officer is informed that while he has to conform to the requirements of Section 2 oz. of the Rent Reduction Act, the Government have power to vary his recommendations and it is open to them to adopt a unfform rate or differential rates of rent.

Sd. x x x
20-1-49.

To:

The Special Officer for Rent Reduction.

Copy to:

The Board of Revenue.

/True Copy/

NOTES.

Revenue Department.

To A.S.

Please see the Special Officer's D.O. on p. 12 c.f. and enclosures on pp-13-20 c.f. The principle enunciated by the Go ment at the recent Conference, to be adopted in cases of the ki in question is at flag (X). With reference to the figures furn hed by him the Special Officer has ~~should~~ stated that this pri ciple in eminently remarkable in practice. One point, however, requires consideration. A comparison of the weighted average of the estate rates above the highest dry rate for the Governme village with the weighted average of the Government village may work unfairly from the landholders' point of view if the weight Government average in respect of a particular class of land is far below the highest Government rate for that class of land. the exampt~~i~~les furnished by the Special Officer on pp-4-9 ante, the rates compare as follows:-

	Suravaram.	Pagolu.
Government weighted average for dry lands.	3-6-12	5-2-11
Highest dry rate in Government village.	388-0	5-15-0.

The difference in the extent of reduction to be adopted in the case of estate rates above the highest Government rate and the difference in the total reduced rentals is inappreciable in the case of these villages as a result of the highest dry rate not being far above the Government average. But in cas where such average is far below the highest rate, this difference will not be inconsiderable. For example, in the case of Krishnapuram Estate, proposals for which are submitted by the Special Officer in the linked file, the Government weighted averate for dry rates is Rs.4-3-8 whi~~le~~ the average dry rate for rates in the estate village above the highest Government dry rate (viz. rates of 4-9-0 and above) is Rs.7-2-0. - Vide top of p. 3 if in the linked file. If, however, this average viz. 7-2-0 is compared with the highest dry rate in the Government village viz. 5-15-0 the extent of reduction will be $\left(\frac{7\text{-}2\text{-}0 - 5\text{-}15\text{-}0}{7\text{-}2\text{-}0}\right)$ or 19/114 or 1/6 instead of 2/5 as in the farmer case.

In the abosence of the extent of land ~~covered~~ by the various rate it is not possible to work~~a~~out what the total reduced rental will be.

If this fraction 1/6 is applied to the rates abo 4-9-0 in the estate, the total rental will not be reduced very much and the whole procedure would be the fair to the landholder. It is for consideration whether in the circumstances it may not be laid down that instead of the Special Officer comparing the weighted aver- age of estate rates above the highest Govern- ment rate with the Government weighted average rate, he should compare it with the highest Government rate itself. For orders. If this is considered unacceptable, the tentative conclusion ~~assured~~ arrived at at (X) confirmed.

Sd. x x x
5-10-48.

Sd. x x x
5-10-48.

Will A.S. please discuss?

It may also be nece~~s~~sary to consult Legal on the validity of these instructions.

Sd. x x x
5-10-48.

/2.

To A.S.

As ordered above, A.S. dicussed the matter with Secretary. Certain further particulars relating to the four estate villages of Vasanthavada, Suravaram, Pagolu and Krishnapuram obtained from P.A. to the Special Officer are at pp-19-21 c.f. The effec of the various proposals on the total rental of the villages has been scrutinized and the result is set out below:-

Name of estate village.	Existing total rental.	Reduced rental as per Board's method.	Reduced rental as per method proposed at (X).	Reduced rental as per method proposed at M on p. 2 ante.
	Rs. A. p.	Rs. As. Ps.	Rs.As.Ps.	Rs. As. Ps.
Vasanthavada	(Not known)	362 0 9	(Notknown)	365 1 0
	These are apparently the rental from lands which bear rents above Rs.9-8-0 an acre, the highest ryotwari rate for wet lands.			
Pagolu.	5590 14 9	5547 15 2	5565 0 2	5586 10 4
Suravaram	2291 0 0	2731 14 0 6 7.	2771 2 0	2776 5 0
Krishnapuram.	3264 9 2	3232 14-9	3220 1 7	3220 1 7

It will be seen that the method proposed at M on p . 2 ante; while it may not benefit the landholder to a very large extent, has still the merit of being less open to objection on account of the equitable principle contained therein. For orders whether it will be accepted.

Legal may be requested to state whether it will be in order to issue executive instructions confidentially for the guidance of the Board and the Special Officer based on certain informal disuussions held by Hon'ble Minister (Land Revenue) with the Board Member and the Special Officer on 29-9-48 or whether it will be necessary to invoke section 9 of the Act for the purpose.

S . x x x
7-10-48.

Legal Department.

This case is concerned with the devising of ways and means to overcome the following anomalies in the application of the Madras Estates Land (Reduction of Rent) Act, 1947 (Madras Act XXX of 1947).

(1) Where a comparison of the weighted average of the rate of rent prevalent for the different classes of lands in the Estate Village determined under section 2 (2) (a) of the Act with the weighted average of the rates of assessment in respect of the corresponding classes of lands in the ryotwari area determined under section 2 (2) (b) of the Act shows that the weighted average rent in the Estate village is less than or equal to the weighted average rent in the Estate village is less than or equal to the weighted rent is called for. but yet there are several rates of rent in the Estate village which are much above the highest rate of assessment for the coresponding class of land in the ryotwari area;

(2) Where again the weighted average rent of for the Estate village is higher than the weighted average assessment for the ryotwari area and a proportion of reduction can be arrived at, there are still rates of rent in the Estate village

which remain considerably above the highest rate of assessment for the corresponding class of land in the ryotwari area.

To overcome these anomalies, it is proposed to issue instructions to the Board of Revenue and the Special Officer on the lines set out at (X). Under section 2 (2) (b) of the Act, only one average rate of rent can be determined for each class of ryoti land and the proposed instructions are not in consonance with the Act in so far as they require a separate average to be determined for rates which are above the highest rate in the Government village.

The above anomalies are the result of the application of the Act and do not appear to be difficulties arising in the way of giving effect to the provisions of the Act. The provisions of the Act are capable of being applies to the facts of the case but the result of the application entails injustice. As such it is does not appear that section 9 can be invoked to overcome the anamolies.

Under section 2 (3) wide discretion is given to the Special Officer to make due allowance for any difference in the conditions prevailing in the Estate Village and the ryotwari area taken for comparison before arriving at the extent to which the various rates of rent payable for each class of ryoti land in the Estate village should be reduced. The conditions referred to appear to be such natural conditions as soils and sources and other factors having a bearing on the rental value of the land. Normally this would affect categories of land rather than particular or individual cases. And it is therefore difficult to see how a direction that the rent fixed by the Special Officer shall not exceed a particular level would be appropriate.

Nor is it open to the Government to give the necessary relief by resorting to section 3 (2). The Government cannot fix the rates arbitrarily by merely saying that the reduced rents should not exceed the highest rate prevailing in the corresponding ryotwari village. There is no legal basis for any such action.

Sd. x x x
14-10-48.

Revenue Department.

The matter was further discussed by Secretary with the Legal Secretary. It was agreed that there was no objection to tell the Board and the Special Officer of the what the views of the Government on the points raised are though the communication should not be in the nature of instructions. A draft d.o. is submitted for consideration. Legal may see before circulation.

Sd. x x x
15-10-48.

The matter was again discussed between Special Officer Legal Secretary and myself today. Assistant Secretary (Revenue) was also present. Legal Secretary was of the view that if the following 3 points were observed, his objections would be met;

(1) The discretion given to the Special Officer under S 2 must be preserved: in other words Government must not direct how to decide a particular case or class of cases in a particular way in advance.

But

(2) Government are at liberty to call for any information, data, or particulars they may desire to have in order to enable them to exercise their power under S 3 of the Act.

(3) Government are not bound by the limitations imposed on the settlement officer by section 2. At the same time they must not act arbitrarily or capriciously.

/4

The following, d.o. reply on the points raised at the conference in Hon'ble Minister (Land Revenue) 's room on the 29 September seems to me to steer clear of these difficulties. It may accordingly issue after legal has seen again.

Sd. x x x
16-10-1948.

Legal.

The note above explains why the reply is proposed in this form. It may issue.

Sd. x x x
13-10-1948.

Revenue Department.

ToA.S.

The D.O. on pp-34-35 c.f. has been issued. Certain proposals which have been awaiting a decision in this matter may now be returned to the Board of Revenue for re-examination and re submission in the light of that D.O. For orders. Afters orders are passed, the proposals will be put up with a draft memo.

Sd. x x x
21-10-48.

A above may be approved. Only those proposals which really requi re-examination by the Special Officer will be returned.

Sd. x x x
27-10-48.

To A.S.

All proposals received before 18-10-1948 which require re-examination have been noted and are placed in the linked file. The proposals received on and after 18-10-48 are being scrutinize and a further batch will be put up, if necessary, for orders. A draft memo. returning the proposals in the linked file is submitted for approval.

Sd. x x x
29-10-1948.

To A.S.

No further action is called for in this file. The papers may be recorded.

G.O.Ms.No.2874, Revenue, dated 2-12-48

Recorded.

Abstract:

The Madras Estates Land (Reduction of Rent) Act, 1947 - Certain cases of anomalies - Procedure - Particulars to be furnished by Special Officer - Papers Recorded.

Sd. x x x
30-11-1948.

/True Copy/

R. Nagarajan
12-12-53

Office Assistant,
MADRAS RECORD OFFICE.

JN 18/12

Revenue Department.

Rent Reduction Act - Rates of rent on Garden lands - Method of reduction - Procedure - Clarification -

From the Special Officer for Rent Reduction
R.C.A2.1229/48 dated 14-12-1948.

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In April 1948, the Special Officer for Rent Reduction issued certain general instructions for the guidance of his Special Assistants in doing Rent Reduction work. These instructions prescribed, among other things, the procedure to be adopted by them for reducing the rents on the several classes of lands in estates. They were issued with the approval of the Government. The procedure to be observed in the case of garden lands as laid down in these instructions is as follows:-

A weighted average should be worked out separately for the rates on garden lands and compared with the weighted average of the rates on lands of similar fertility in the selected Government village. If the garden lands are irrigated by wells sunk at the cost of the landholder before 1908, the weighted average of the garden rates should be compared with the average dry rate plus appropriate water cess charged for lands of similar soils in the Government village. If the garden lands are irrigated by private wells sunk by the ryots subsequent to 1908, they should be treated only as dry lands and compared with similar lands in the Government village.

2. The Board of Revenue considered that the reduction effected by adopting this procedure was too drastic. In the cases involving garden lands it was accordingly modifying the Special Officer's proposals by recommending to the Government that the estate garden rates might, as a general rule, be compared with the H.D.R. of the selected Government village irrespective of the considerations of similar fertility etc. On the other hand the Special Officer considered that this was definitely to the prejudice of the ryot and in favour of the landholder. There was thus disagreement between the Special Officer and the Board. This and other matters arising under the Rent Reduction Act on which the Special Officer and the Board did not agree were discussed at a Conference held in Hon'ble Minister (Land Revenue's) room on 29-9-48. It was agreed that the garden rates should be reduced uniformly to the H.D.R. of the Government village in all cases unless the existing rates fell below that H.D.R.

3. In proposals submitted by him after the Conference, in the case of garden lands, the Special Officer has been adopting the following procedure:--

He compares the weighted average of the garden lands with

(a) the H.D.R. of the Government village (in cases where water is not taken from an estate irrigation source), and

(b) the H.D.R. of the Government village plus the appropriate water cess (in cases where water is taken from an estate irrigation source).

and determines the extent of reduction. He applies the extent of reduction to the existing garden rates and arrives at the reduced rates. He proposes that the reduced rates be limited to the H.D.R. plus appropriate water rate or the H.D.R. only, according as water is or is not taken from an estate irrigation source.

4. On the other hand, in accordance with the conclusion arrived at at the Conference held on 29-9-48, the Board has been modifying the proposals of the Special Officer and recommending that the garden rates be uniformly reduced to the H.D.R. or to ~~H.D.R.~~ H.D.R. plus appropriate water rate, as the case may be.

5. In his letter in the C.F. the Special Officer has stated that the procedure followd by him (which is described in para 3 above and which is also the one followd by him in the case of the garden lands in the Konijerla village in the West Godavari district) retains to some extent the principle that lands of different fertility should have different rates and that it is also in consonance with the modus operandi of the Act and that the principle adopted by the Government village, is in conflict, with the provisions of the Rent Reduction Act. namely reduction of the garden rates uniformly to the H.D.R (or H.D.R plus appropriate water rate) of the Government

6. The point for consideration is whether any reconsideration of the decision of the Government to reduce all the garden rates in the estate village uniformly to the H.D.R. of the Government village is called for. No doubt, as stated by the Special Officer section 2 (3) of the Act requires comparison of the average of the rates in the estate village with the average of similar lands in the Government village selected for comparison. The procedure decided upon at the Conference by which the no comparison as such is made but the rates are automatically reduced to the H.D.R. or H.D.R. plus appropriate water rate in the Government village, as the case may be, has however been arrived at as a working principle and the question is whether it should be modified.

7. Legal may see for remarks with reference to the remarks of the Special Officer at A on page 2 above.

Sd. x x x
29-12-48.

There is no legal conflict at all that I can see. The matter has been fully threshed out and numerous ~~of~~ and bitter differences between Special Officer and the Board have somehow been set at rest for the time being. I think it will be in expedient to re-open the matter unless we are compelled to do so.

Sd. x x x
4-4-49.

LEGAL DEPARTMENT.

All that section 3 (2) of Madras Act XXX of 1947 requires is that Government should, before they fix the rates of rent payable in respect of each class of ryoti land in each village in the estate, consider (1) the recommendations of the Special Officer and the remarks of the Board of Revenue thereon. Under the terms of section 3 (2) Government may adopt a uniform rate or differential reates of rent. The adoption of a uniform rate of rent for garden lands in a village cannot therefore be said to be per se illegal. The Act Government, a considerable degree of latitude. The only express restriction is that they should consider the recommendations of the Special Officer and the report of the Board. To this must be added the implied restriction that Government should exercise their discretion fairly and equitably and not arbitrarily or capriciously. The Special Officer must conform to the requirements of section 2 of the Act but the Government have power to vary his recommendations. As already mentioned it is open to them to adopt a uniform rate or differential rates of rent.

There appears to be therefore no objection to adopting the course proposed by the Revenue Secretary at A on page 3 above.

Sd. x x x
16-1-49.

Revenue Department.

To A.S.

Notes from p. 1 ante may be perused. The Special Officer may be informed as at A on p. 3 ante and B above. A draft memo is submitted for aproval.

Sd. x x x
23-4-49.

(Issed as Memo. No. 71251-M/48-2 dated 21-2-49).

To A.S.

Please see the notes from p. 3 ante. No further actio is called for in this file. May be lodged and stitched with G.O.Ms.No.2874, Revenue, dated 2-12-1948.

Sd. x x x
26-2-48.

/True Copy/

R. Thiagarajan
Office Assistant,
MADRAS RECORDOFFICE.